

The manufacturing machinery and equipment exemption includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for sale or lease. See 86 Ill. Adm. Code 130.330(c)(6). (This is a GIL.)

June 6, 2007

Dear Xxxxx:

This letter is in response to your letter dated May 9, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We believe very strongly our use of sulfuric acid should qualify as exempt. I have enclosed a written memorandum from our plant manager as well as four pictures which help explain our usage.

Regulation 130.330c) paragraph 6 dictates 'If the sulfuric acid is acting as a chemical or a catalyst and it effects a direct or immediate change then it will be tax exempt'.

Please know the acid does act as a chemical and does effect a change. Therefore we believe our purchase of acid should be considered exempt.

If you would like any more specific information to assist you in your decision we will be more than happy to provide. Please feel free to call me at my direct line number. I have enclosed my card for your convenience.

COMPANY was founded in DATE and has been operating from CITY, Illinois since that date. As you can imagine, trying to compete when most other mills have either closed or moved to less expensive foreign countries, has not been easy. The ruling that acid is exempt for our usage would not only be the correct ruling, but would also be very helpful.

DEPARTMENT'S RESPONSE:

The Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330(a). The manufacturing process is the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling of a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating or refining which changes some existing material or materials into a material with a different form, use or name. The changes must result from the process in question and be substantial and significant. See 86 Ill. Adm. Code 130.330(b)(2).

The exemption includes chemicals or chemicals acting as catalysts, but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for sale or lease. See 86 Ill. Adm. Code 130.330(b)(6).

In the context of a General Information Letter, our office cannot provide you with a determination whether the sulfuric acid used by your company qualifies for the manufacturing machinery and equipment exemption. However, please note that the Department has recognized in specific situations that acids that are used to remove rust and scale in a process that otherwise meets the requirements set out in Section 130.330 may qualify for the manufacturing machinery and equipment exemption. Although the Department's Private Letter Rulings (PLRs) are only binding upon the party to whom they are issued and cannot be relied upon by anyone else, you may also wish to review PLRs ST 05-0011-PLR and ST 02-0017-PLR on the Department's Internet website.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Senior Counsel, Sales & Excise Taxes

TDC:msk